

Quid Novi

McGill University, Faculty of Law
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THE LAW FACULTY WON'T HAVE ITS OWN
YEARBOOK THIS YEAR. WOULD YOU LIKE TO BUY
THE McGill University YEARBOOK?

SHARE A YEARBOOK?!?!?
ISN'T IT ENOUGH THAT
I HAD TO WAIT IN LINE
WITH THESE PEASANTS?

WE'RE PART OF
McGILL UNIVERSITY?
OH, YOU MEAN "LOWER CAMPUS!"

CAN YOU MENTION THAT
I'M IN **LAW** AGAIN,
BUT A BIT LOUDER?
I WANT THOSE CHICKS
IN THE LINE-UP
TO HEAR...

NAH, DADDY
DIDN'T GIVE ME
ENOUGH MONEY
THIS MORNING.

THE **LAW** PAGES
WILL BE IN COLOUR,
& AT THE BEGINNING
OF THE BOOK,
RIGHT?



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Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discrétion du comité de rédaction.

Contributions should preferably be submitted as a .doc attachment. All anonymous submissions will be rejected.

Editor's Note...

Si j'étais directeur des informations de Radio-Canada...

Je remplacerais dès ce soir le chef d'antenne du Téléjournal par la somptueuse Michaëlle Jean et je placerais Céline Galipeau à la tête du bulletin de l'heure du souper, afin de rehausser l'image ternie de notre télé nationale.

Depuis le remaniement de la rentrée 2003, la qualité du service de l'information ne cesse de surprendre par son rapprochement aux chaînes populaires que sont TVA et TQS. Prenons l'exemple du bulletin de nouvelles du souper où le format de Radio-Canada est difficilement discernable de celui de ces concurrents. On y traite que superficiellement de l'actualité internationale pour accorder la majorité du temps d'antenne aux situations cocasses de notre petite ville.

Indépendamment de notre opinion sur la pertinence de certains reportages portant sur les crèmes hydratantes ou les crimes de quartier, tels que présentés depuis septembre par Simon Durivage, l'absence d'un bulletin de nouvelles axé sur l'actualité nationale et internationale ne peut avoir comme effet qu'un lent et pénible abrutissement de la population. À tort ceux qui prétendent que Radio-Canada doit concurrencer avec des chaînes comme TQS pour gagner le concours aux cotes d'écoute. Sa mission est beaucoup plus large; non pas de divertir, mais d'informer, d'éduquer.

L'arrivée de Galipeau et Jean aux nouvelles du soir ne répareraient pas la gaffe monumentale des changements de cet automne, mais ces reporters auraient au moins le mérite d'être capables de discussions plus recherchées que ces canulars quotidiens à propos de la météo...

Patrick

Everyday Law in the Land of the Positivists

by Aileen Doetsch (Law III)

What is law?" asked the professor of my first year Bürgerliches Gesetzbuch (BGB) class. Students offered many answers and even included "custom" and "tradition," but these answers were dismissed as being nice tries. "No, no, we're not in America where people theorize about a distinction between law in books and law in action," he lectured to three hundred and eighty wide-eyed first-years. "An order is only law when it is sanctioned by the State." And with that begins the legal career of a new generation of jurists, and the McGill student among them smirks. Positivists!

I went on exchange to get new perspectives on law and I'm definitely getting them at the Albrecht-Ludwigs-Universität in Freiburg, Germany. Of course, I'm taking many interesting classes and am becoming quite adept at memorizing BGB (the German equivalent of the CCQ) article numbers. However, I am getting to know more than only the laws of the German State - I am getting to know Everyday Law, because I can perceive it here in a way that would not have been possible in Canada.

Everyday law is a much-discussed concept at McGill, but the real meaning of it just hit me in the last two months. We take every-

day law for granted because it is implicit in what we do. We don't even realise it exists, or at least I hadn't until I became the foreigner stumbling around in it, not knowing where it would pop up and when I would be declared in violation.

The first hint that I was no longer immersed in my usual everyday law came at the proverbial red light. No cars to be seen far and wide, no sign of the light changing anytime soon (traffic lights seem to exist outside of the realm of German efficiency), and so the Canadian takes matters into her own hands, or feet in this case, and strolls across the street. Waves of dismay and grumbling reach her on the other side. The German pedestrians left behind are clearly not amused at this clear disrespect for the order represented by the red light. The Canadian is long gone by the time they finally get to cross.

The next time I became clearly aware of a change in the Rules of the Everyday was at the movies. I was there for the only non-dubbed screening of the week and because support for events of this sort is limited there were few other people in the theatre. Therefore I felt at liberty to ignore the seat number printed on my ticket and select my seat from among the almost four hundred free

ones. Much to my surprise, the other members of the audience all seated themselves according to the computer-selected arrangement even if this meant sitting to the side or front of the theatre or right next to strangers. A German-American couple entered and they argued quietly about whether they should sit at the assigned seats or choose their own. Their solution was a perfect compromise: the German sat in the assigned seat, the American held out and sat in the unassigned seat beside her.

These examples demonstrate that there are norms at play which are different in Germany than in Canada. These norms are hardly perceived when one acts in conformity with them at home. I didn't even know that we had a norm for seating! Indeed, I don't think I ever really understood what "the norms are everywhere, all around us" meant. But the more time I spend here, the more I realise how normative our behaviour is. Indeed, the subtle differences in behaviour I notice here stem from a set of norms that everyone follows. And thus, surprisingly, the whole world of Everyday Law is revealed before my eyes, here in the land of the positivists. Who would have guessed? ■

History's What You Make It

RE: Speak White: A Little History...

by Gord Cruess (Law I)

I think Marc-André Séguin's recent article responding to one of Mike Rowland's pieces on Anglos in Québec was important, because it pointed to some pivotal events in our history. History helps us not only to understand where we come from, but where we are. How can we appreciate life's many layers if we don't know how some of those layers came to be?

I therefore agree with Mr. Séguin that it is crucial, if one is to understand the tensions that have existed between English Canada and Québec, to have a proper grasp of history. I think, however, that the history that Mr. Séguin refers to can be applied to our current context in a way that avoids the dialogue of "us v. them." There are also a couple of other points in his article that I think provoke need-

less disharmony.

Language

Mr. Séguin mentions the unacceptable circumstance of having to enforce the rights of Francophones to speak French in Québec. This was the basis of Mr. Rowland's article as well. I agree with both of them that this sort of situation shouldn't exist, and should be rectified. Mr. Séguin goes on to say that Francophones should be able to express themselves in their first language in the rest of Canada because our country is bilingual, and suggests, sweepingly, that Anglophones do not have a difficult time being understood in Québec.

With respect, Canada is bilingual in the sense that constitutionally, French and English

enjoy equal status. This does not mean that the Constitution, or the Official Languages Act for that matter, intend to make everyone bilingual, fantastic as that would be. The purpose of equal status and all that it entails in the Canadian context is to ensure the protection of individual rights according to a communal bilingual heritage, and to cultivate a more accessible and tolerant society.

And yes, Anglophones that only speak English do have problems communicating in Québec, even in Montreal. This is understandable. It might be comparatively easier for them than it is for Francophones in other provinces, but the fact exists nonetheless. Again, not everyone in Canada, or Québec, is bilingual. The reality that more Québécois speak to a number of factors and issues, but at the end of the day, it should be seen as an overall asset rather than as a cause for finger-pointing.

Diane Francis

In referencing Diane Francis, Mr. Séguin pointed out that ignorant views about French Canadians and sovereigntists not ►

only exists today, they are, shamefully, given a national platform on occasion. It troubles me deeply that Ms. Francis has such a wide audience; I think, frankly, that she is the worst columnist currently writing in Canada. But holding her views up as a sort of juggernaut that seemingly cannot be overcome gives them more strength than they deserve-better it would be to systematically dismantle her arguments as the intolerant psychobabble that they are so that they don't gain footing in weak minds.

Extreme positions spawn cycles of mistrust, non-dialogue, and hate. The Diane Francis' of the world manage to push people farther apart, because the rattling of their drums tends to drown out the more numerous, yet less histrionic, moderate voices. This shouldn't happen. We should use these sorts of propagandists not as instruments of division, but for our mutual benefit-they will always exist, and so we will always have a springboard from which we can launch more inclusive and truthful positions.

History

As I mentioned in the beginning, the meat of the article was in its treatment of the past. There is no question that Mr. Séguin is well-versed in Canadian history, particularly as it pertains to Québec. I agree with him that it is insulting to brush aside the injustices that shaped much of Québec's history. I do not think, however, that the act of remembering these injustices necessarily implies social division.

The English certainly perpetrated atrocities on Francophones, and that should not be lost sight of. The English conquerors are not, however, the only ones with blood on their hands. Both colonizing powers, for example, inflicted untold abuse on Aboriginal peoples. My point, however, is not to be made in an exercise of list-making. There are too many wrongs against too many groups to recount in this space. These wrongs should be remembered, and reparations for them should be made where they are due.

My point is to offer an historical perspective that is more conducive to a healthy present. It is to see that history doesn't have to be self-perpetuating. Challenging ourselves to overcome past wrongs-past wrongs that so easily become symbols of oppression or grounds for antipathy-is the only way to move forward. To overcome is not to forget or to trivialize. It is to defeat the "us v. them" dichotomy that ignorance, intolerance and arrogance created in the first place. It is to learn from the past.

History can too easily become a crutch-it can too easily create division predicated on a mistrust of the Other. This trap is at the root of every primordial conflict in the world. True

resistance isn't forged by drawing lines because of what's been done before. It is won by facing up to what has happened, and trying to build bridges nonetheless. ■

Speak Whatever You Want

by Antonio Iacovelli (Law II)

I never expected to read the hackneyed rhetoric, so typical of a Raymond Villeneuve sympathizer, in the *Quid*. Marc-André Séguin's article is not worthy of a reply but I will dignify it with one, if only for the sake of well intentioned but misguided Anglophones like Michael Rowland. Such Anglophones, because they are not from Québec, will typically pander to the world's-done-me-wrong complex of your average Québec ethnic nationalist. As an Anglophone *Québécois* (though ethnic nationalists like Séguin would never call me *Québécois*), I have heard this prattle my entire life, *ad nauseum*. A disclaimer before I proceed, lest I be accused of hatred or narrow-mindedness: besides being an Anglophone *Québécois*, I am also a polyglot and a Francophile.

Mr. Séguin, Anglophones do have trouble communicating in English when they visit Québec. In fact, they will have trouble communicating in English if they venture too far east of St. Lawrence Boulevard. Statistics Canada data show that an astounding 40% of Montrealers can *only* speak French. For Québec as a whole, the figure rises to 56%. Those are good odds, Mr. Séguin, that an Anglophone will necessarily use the language of Molière in la Belle Province. To answer your question, I have encountered a lot of trouble being understood in English, when I have simply wanted to affirm my identity as an English-speaking *Québécois*.

Mr. Séguin, as much as ethnic nationalists like you would like to co-opt the Rebellions of 1837-38 as simply an ethnic French-Canadian struggle against the evil English, we can easily dismiss your revisionist history by reading a high school history textbook. Mr. Séguin, there were simultaneous rebellions in Upper Canada and the issue, despite what vulgar propagandists like Normand Lester or Pierre Falardeau may contend, was a rebel desire for representative and responsible government. English- and French-Canadians alike died for that cause.

Mr. Séguin, a bunch of drunken Anglos did riot and set fire to the Canadian Parliament, which stood in what we today call Place D'Youville in Old Montreal. They even fought off the firefighters who had come to put out the blaze. But it is disingenuous (and xenophobic)

on your part to say that that act demonstrated "Anglophone arrogance," as though all Anglophones arrogantly supported the violence. Besides, the dynamics of present-day Québec society are so different from what they were in the 19th Century that it makes little sense to even appeal to these events in order to demonstrate anything today. Bad things happened. Many good and bad things have happened since. Get over your Kafkaesque paranoia and anachronisms like "speak white," Mr. Séguin. Stop twisting facts and giving people like Diane Francis ammunition. And in fairness to her, your footnote, Mr. Séguin, shows that she was griping about Québec separatists, and not about all self-respecting French-speakers.

Mr. Séguin, "*Je me souviens*" is the most beautiful and ambiguous motto that I have ever read. It angers me that Québec ethnic nationalists have so defiled it. Since it is expressed in the first person singular, it can apply to anyone. Had it been an oppressively collective "*Nous nous souvenons*," you might have had an easier time co-opting it. But no, in its ambiguity it imposes no "collective memory." The motto simply affirms that we should all remember our roots, regardless of where they are. Mr. Séguin, you could gain some more insight into Québec's beautiful motto if you watch a funny NFB documentary entitled "A License to Remember: *Je me souviens*" by director Thierry Le Brun. And for what it's worth, it bears mentioning that Eugène-Étienne Taché, the man who designed the National Assembly and penned our lovely motto also wrote, "*Née dans les lis, je grandis dans les roses*." ■

The Weekly Haiku

by Akbar Hussain (Law I)

Flipping through Black's

Legal maxims taste
like cigar smoke in my mouth:
affected and dry.

Mémoires d'une québécoise anglophone

par Emily K Moreau (Law II)

J'aimerais débiter mon article en soulignant deux faits. Premièrement, vous avez peut-être remarqué que mon nom de famille (dont je suis très fière) est distinguement francophone. Lors d'une recherche effectuée par ma soeur, nous avons découvert qu'il y avait des Moreau sur le même navire que Marguerite Bourgeoys, cette soeur française qui a fondé la première école en Nouvelle-France. Mes racines au Québec s'étendent donc jusqu'aux débuts de notre charmante province. Deuxièmement, vous avez sans doute remarqué que j'écris en français - et non, je ne me suis pas servi des merveilles de l'informatique pour traduire mon texte de ma langue maternelle, celle du fameux Shakespeare, en français. Dès l'âge de huit ans, jusqu'au cégep, mon éducation a été entièrement en français. Mes parents anglophones ont décidé qu'une éducation en français serait d'une valeur incalculable et ils avaient complètement raison. Bref, pour ceux et celles d'entre vous qui ne me connaissent pas, seul le "y" à la fin de mon prénom me trahit et me dévoile comme étant une anglophone.

Maintenant que je me suis lavé les mains de tout biais possible, j'aimerais répondre à l'article de M. Marc-André Séguin. Particulièrement, je voudrais répondre à une question spécifique qui a été posée dans l'article: "Could any one of you say that you ever encounter any trouble getting (sic) understood in your own Shakespearian mother tongue?" Ma réponse est définitivement oui. Je me souviens de plusieurs occasions lorsque quelqu'un dans le domaine du service était incapable, ou tout simplement refusait, de me comprendre en anglais. J'accepte que le Québec est une province francophone et que la langue officielle est le français, mais ces événements ne se sont pas déroulés à Grandmère ou à Saint-Jean. Non, ils se sont tous déroulés ici, dans la belle ville métropolitaine et internationale de Montréal. Il m'est surprenant que dans une ville qui reçoit de nombreux visiteurs par année, des visiteurs qui ne parlent assurément pas tous le français, il y a des personnes qui travaillent dans des restaurants, des magasins et dans les métros et les autobus qui ne peuvent pas, ou ne veulent pas, comprendre de simples questions en anglais. Quand je demande un "number 1 with a coke" au McDo et que l'employé me

répond avec un regard vide, je suis toujours un peu surprise. Ce qui est encore plus insultant est lorsque quelqu'un refuse de me servir si je ne lui parle pas en français. Je n'exagère pas - il y a eu des occasions où un commis m'a complètement ignorée parce que j'ai dit "excuse me" au lieu "d'excuse moi". Ce n'est certainement pas un problème de compréhension car les deux phrases ne sont pas si différentes que ça. Il y en a même qui ont eu l'audace de me dire - et non de me demander avec politesse - de parler en français. Malgré mon habileté en français, je refuse toujours et j'amène mon argent ailleurs, là où les gens sont respectés. Ces personnes servent le

*Quand je demande un
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public et le public inclut les anglophones et allophones autant qu'il inclut les francophones.

Je me souviens aussi d'histoires très intéressantes qui proviennent de mon expérience au secondaire. Je peux dire que se faire lancer des pelures d'orange et des restants de sandwich pendant l'heure du dîner parce que je parle avec des amis en anglais ne tombe pas dans la catégorie de mes souvenirs les plus doux. Je me suis fait dire de "parler le français, est!" en marchant au dépanneur, hors des limites de la cour d'école; j'ai pensé à faire changer mon nom pour "maudite anglaise" puisque j'ai entendu ce nom aussi souvent que le mien; j'ai même été menacée de retenus après les cours si j'étais prise "in flagrante delicto" - c'est à dire en discutant en anglais à la récréation avec mes amis. Je n'avais aucun problème avec la politique du français exclusif dans les cours, mais il me semble que personne ne devrait craindre de "se faire prendre" en parlant une langue autre que le français, surtout dans une école qui se promouvait comme étant une institution d'éducation internationale.

Je comprends tout à fait que les français ont été persécutés par les anglais au cours de l'histoire du Québec. Je comprends que les francophones veulent protéger leur langue et

leur culture dans la marée d'anglophones qu'est le Canada. Je comprends même qu'il y ait des gens qui ne comprennent pas l'anglais. Je ne comprends pas pourquoi je suis traitée de tête carrée parce que des anglais ont agi stupidement au 18ème et 19ème siècles, un argument préféré des francophones qui est pas mal faible. Je ne dis pas que nous devrions oublier ce qui s'est passé, mais il faut que nous nous rendions compte que c'est de l'histoire. En droit nous parlons toujours du contexte; je crois que nous devrions considérer la position actuelle du Québec en fonction du contexte de 2003 et non seulement en fonction de celui de 1759. J'écris cet article le 11 novembre, date qui porte le nom approprié de Jour du Souvenir, et je porte un coquelicot pour me souvenir de ceux et celles qui ont perdu leurs vies lors de la Première Guerre Mondiale; par contre, je n'ai aucun désir de cracher sur un allemand. Oui, il existe encore des anglophones arrogants mais comme M. Séguin l'a souligné ils ne sont pas d'une majorité. L'article écrit par

Mme. Diane Francis qui est cité dans celui de M. Séguin est déplorable. Elle s'est en fait baissée au niveau des adolescents qui m'ont lancé de la nourriture au secondaire. Le fait que M. Séguin a ressenti le besoin de poser la question à laquelle j'ai répondu démontre que les francophones manquent aussi des renseignements essentiels pour permettre un débat juste et civilisé sur la matière des relations entre francophones et anglophones. Je n'hais pas ceux et celles qui désirent que le Québec se sépare du Canada; je ne partage pas leurs sentiments, mais il y en a qui ont des raisons valides. Malheureusement pour ces individus, il y en a beaucoup d'autres qui n'ont pas des raisons aussi bien pensées et ce sont souvent ces individus qui reçoivent le plus d'attention. La protection du français se traduit parfois en assaut sur l'anglais, au moins dans mon cas personnel, et j'ai de la difficulté à croire qu'il n'y a aucun autre anglophone au Québec qui ait vécu des événements semblables à ceux que j'ai décrits. Les fautes commises par les anglais en Nouvelle-France, et même plus récemment, ne peuvent pas être effacées; mais l'ignorance et le manque de respect envers les anglophones sur la part des francophones au Québec ne les corrigera certainement pas. ■

Speak Right: a Little Disagreement...

by Karine Péloffy (Law II)

What the hell was that? That was my initial reaction to an article by Mr. Séguin about the rationale behind the sovereignty movement. Ouch. Five minutes ago I was a proud Quebec Francophone but this article took all of my nationalist pride away from me.

Whatever your position might be about separation and Quebec identity, please don't make it rest on all of us. If your version of national identity is holding a 150 years-old grudge at Anglophones I want no part of it. If your idea of a convincing argument is "I hate you because my granddaddy hated your granddaddy" - I strongly disagree. If to feel like a true Quebecois we have to have family ties going back to *Les Patriotes*, well you just ruled half of my family out.

How can you try to convince that the separatists are not racists when your piece is filled with quotes of "Anglophone arrogance"? Didn't your own statement portray the same kind of arrogance you were trying to denounce? What kind of credibility do you grant us when you dare bashing at a courageous Anglophone trying to enforce the Charter of the French Language?

The sovereignty movement should first and foremost be a fight for a certain ideal rather than simply a fight against the oppressor (if any such thing still exists in present-day Canada).

A strong national identity is one that looks forward, not one entangled in past mistakes and failures. A movement that will radiate with vitality is not one based on hatred,

finger-pointing and bitterness, but one founded on open-mindedness and inclusivity.

See, we do have the potential to be a strong people (and five minutes ago I thought we already were), but that can only be achieved with a little introspection and redirection. Blaming it all on the Anglophones will bring us no success, only alienation. If I really got your point, our identity is not solely based on the issue of language but also a language-based historical dispute.... Sorry, but the typical underdog argumentation is no longer compelling, even to someone who might have been tempted to agree with you. Why don't you try finding solutions instead of wasting your time focusing on problems? ■

Why Canadian Unity Needs The Planet Smashers And Not Nickelback

by David Perri (Law II)

Introduction: A Canadian Unity Discussion At McGill Law... Oh My.

Before I even come close to the vicinity of my point, I'm going to apologize for the headline. Anyone who's ever wasted their time reading my Quid ramblings this year and last might know that I try to incorporate credible and/or lesser-known artists in that aforementioned headline space. However, in the interest of people actually reading the following article, I've sold-out and included the bloated, rancid figureheads known as Nickelback to draw your attention.

As it currently stands, there's a definite anti-French sentiment in the rest of Canada.

So, like, I'm not a fan of Nickelback in any capacity. If it were up to me, the band never would have had the opportunity to sign a major label deal. Toil in obscurity, Chad Kroeger!

Now that Nickelback is off the table (for the time being), I've come to realize that there are two *raison d'être*s in my life, namely music and Canada. There are no other subjects I'd rather converse about. In fact, when I

find myself alone with my thoughts, these are really the only two spheres that I ponder with any consistency. Luckily for you, today is not the day I analyze the merits of post-punk lyrical despondency or wax poetic about death metal's cross-pollination with black metal in Gothenburg, Sweden circa 1998. Instead, my treatise on Canada's continued existence is what follows.

This country is quite the complicated place. Seemingly innocuous from the outside (read: US perception), Canada seethes with internal unity disputes that simply boil over rather than ever being permanently adjusted.

The left coast/westerners reading this piece are going to accuse me of putting forth an east-centric view, and the individuals from west of Thunder Bay, Ontario are probably right (pun intended?). But, I'm an Anglophone Montrealer, and as such my viewpoint is inherently skewed. So, with the overbearing (over)-confidence only becoming of a law student, I propose the following grand unity solution.

Part 1a: Let's Put Separation Away For A

Generation... Quoi?!

Already people are laughing. I can hear the guffaws, in fact they're drowning out the Fear Factory record I'm listening to. I understand that predicating a solution based on the naive assumption that the problem itself will simply disappear is a cognitive disjuncture. But hear me out.

As it currently stands, there's a definite anti-French sentiment in the rest of Canada. For every open-minded Canadian who is willing to learn French, there are numbers tenfold who automatically (and in an almost Pavlovian manner) associate the language with separation. Ask a right-leaning Albertan about speaking French. Your likely response is "Fuck French and the separatist horse it rode in on!" I'm not exaggerating. There is a marked bias against the language in many parts of this country. But why? It doesn't take much analytical skill to realize there's a story inside the story here. The French language that, objectively, is simply another way of communicating has become politicized, mired in a mental association with the break-up of the country. Therefore, some Canadians might automatically be resentful of the language because of what it has come to represent.

So, Lévesque disciples of all stripes, I propose the following: put separation away for an extended time period. Let a generation of Quebecois grow up without a 'Quebec = evil' stigma and a cross to bear in the rest of Canada. I'm telling you, if a successive ►

generation of English-Canadians also grows up without this perceived separation threat, they will be much more willing to learn French and possibly even speak it regularly. Learning a second language is such an asset. Furthermore, without a Parti Quebecois-induced noose around its neck, French will finally be perceived as that asset rather than the current political proverbial boogeyman.

But, like I said, this solution stands partially on a faulty assumption, i.e. how do you get the staunch defenders of the faith in Beauce, Quebec to put separation away for a while? Well, that's where Part 1b comes in.

Part 1b: It's All About A Demographic Shift

If you haven't laughed at this article yet, this is where a good chuckle is going to come forth. With the ushering in of Jean Charest's Liberals here in Quebec, young Francophones will now begin English instruction in grade 1 rather than grade 3. What that means is that an entirely new generation of Quebecers are growing up with a greater opportunity to be bilingual. And, with bilingualism comes understanding as bilingualism induces inclusion, rather than paranoid exclusion/delusion à la Office de la Langue Française. Ergo, a future legion of Quebecers speaking French and English fluently will at least make separation's generational hiatus proposed in Solution 1a a (somewhat) more fluid affair. This fluidity could subsequently be reinforced by the creation and implementation of Part 2.

Part 2: My Woes Doth Travel!

This element of the discussion will have the fiscally conservative faction of McGill Law (uh, so I guess all of you?) up in arms. But, I didn't major in Economics nor in Finance of any kind during my undergrad. I was a Poli Sci major, therefore political reverie without consequence is what I have a degree in. That being said, what I'm proposing is a cross-Canadian birthright trip. This is how it works.

At 14 years old, every Canadian student qualifies for a trip across the country. Why 14,

you ask? Because the student is still at an intellectually/socially impressionable age, but is old enough to be cognizant of the trip's purpose. The trek would consist of touring Canada's many regions to dispel the myth that regional disparity is what tears us apart. As these students — Francophone and Anglophone alike — travel from St. John's to Victoria, I'm hoping several realizations will dawn:

a. If you want to be a Canadian, you have to speak both languages. If you can't communicate with a fellow citizen, then just what the hell are you accomplishing? What kind of country will you be building in the future?

b. Canada may be full of regional anomalies and idiosyncrasies, but in the end we're all Canadian. Nova Scotians are different from Manitobans. Ontarians contrast Albertans. British Columbians aren't Prince Edward Islanders. Quebecers share few regional commonalities with Saskatchewanians. However, that's where the division ends. The goal for the student at this juncture is to realize that though each region is a separate, unique entity of its own, regional fluxes aren't the catalyst for the break-up of Canada. Regional quirks are a natural part of a nation, and those regional antimatters are found in every country. Unfortunately, they tend to flair-up with much more intensity in Canada.

These impressionable youth will hopefully take the unique trip to heart and mature realizing that you can be a proud English-Canadian and speak French: knowing the other official language doesn't mean you support Canada falling apart. French-Canadians can know that a proud, bilingual Quebecois(e) is also a proud, bilingual Canadian(ne). These fragile human constructs are not mutually exclusive.

Conclusion: David's such an idealistic bastard! It'll never work!

If you've made it this far, you're no

doubt either full of giddy wonder or intense scorn. This unity I speak of is based on an ideal, I will admit. But there's no reason the ideal shouldn't be actively pursued. As it stands, I try to live my vision as to what a Canadian is and ought to be. I'll admit I was once more closed-minded and, as such, my French isn't nearly where it should be as an Anglo-Quebecer. However, I've put more effort into polishing my French over the last 365 days than ever before. Referendum '95 occurred when I was 14. That experience and, particularly, having a woman I had never met before verbally accost me for waving a Canadian flag on René-Lévesque Blvd. days before the referendum did unfairly bias me. But I've come to put that hurtful period away, and am full of excitement for Canada's future. As it stands, Montreal is the most Canadian city in Canada. We're a metropolitan area

*Quebec is one half of the maple leaf,
as is any other province.*

that's fluently bilingual and exudes the fundamental Canadian values all 30 million of us share in this great East-West (West-East?) fabric. Quebec is one half of the maple leaf, as is any other province.

Finally, why the reference to the Planet Smashers in the headline? Because, unlike Nickelback, the Planet Smashers attempt to live true Canadiana. The Montreal-based anglo ska band tours the country and speaks both French and English at its concerts, regardless of whether it's in Lethbridge, Alberta or Noranda, Quebec. Frontman Matt Collyer speaks Français with a heavy Anglophone accent — at times, it's even laughable. But he's attempting to be a full-bodied Canuck, and his band often records in both languages. Though Nickelback has sold countless records compared to the Smashers, the Montrealers have accomplished more for Canada than Chad Kroeger and his associates can ever lay claim to. ■

Last chance to submit to the Quid this term!

Deadline Thursday at 5pm: quid.law@mcgill.ca

News Item:

Someone Pissed in Marc-André Séguin's Cornflakes

by Mike Brazao (Law III)

MONTREAL (NATION DU QUÉBEC) – The Faculty of Law at McGill University witnessed a somber occasion yesterday when first year student Marc-André Séguin held a press conference to officially apologize for indicting all English-speaking Canadians as oppressive, murderous, arrogant people with a bizarre penchant for burning buildings.

In asking forgiveness for his “*tite blague*”, the passionate patriote ruefully concluded that the unprovoked, hateful and over-the-top diatribe he submitted to the *Quid Novi* was the not result of the usual poor judgment and lack of tact so often exhibited by his separatist ilk, but the fact that someone had emptied their bladder into his breakfast cereal that morning.

“I wish to apologize to all the *maudits* that I slandered through my unfortunate remarks. But please, let me explain. I was up late the night before, watching *Elvis Gratton* movies and other sovereigntist propaganda that was heavily subsidized by federal handouts. Needless to say, that got me revved up. And of course, in order to find such driv-el funny you have to smoke a lot of pot. So I got stoned, and I started reading 165-year-old articles from the *Montreal Gazette*, thinking they were recently printed. Well, the thought of being subjected to yet another pogrom made me angrier than Bernard Landry at the sight of a Hispanic hotel employee on referendum night. Then, when I ate my breakfast the next morning I realized someone went pee-pee in my morning milk. Man, I was more pissed off than Yves Michaud on Yom Kippur!!!”

After hearing of Mr. Séguin's tainted cereal, some of the reporters in attendance astutely remarked that it wasn't the first time a Québec separatist had been alarmed by the intrusion of a colourful presence into a previously all-white environment.

In light of his epiphany, Mr.

Séguin announced that he would also be dropping his proposal that the faculty build an “apartheid wall” to keep the arrogant Anglos from spitefully burning down their own institution.

All this marked the end of several days of speculation as to why exactly Mr. Séguin chose to take out his feelings of utter inadequacy on an entire populace, most of which has absolutely no lineage dating back to the 19th-century events to which he had so vociferously taken exception.

Some had suggested that Mr. Séguin, who as a Quebecker hails from a proud line of hunters and trappers, was merely frustrated because he had yet to catch any beaver since entering the faculty in September.

Others speculated that Mr. Séguin was just angry because, once again this year, the Habs suck.

Upon hearing about the uninvited urine in Séguin's *dejeuner*, the faculty was abuzz with speculation as to who the culprit could be. At

first, there was a theory circulating that perennial polemical pisser Daniel Moure, while micturating into the prevailing breeze, had accidentally let some of his salty apple juice fly into the breakfast bowl of the sultry separatist. Upon hearing this, Mr. Moure was quick to release a 14-part press release denying his involvement in the sordid affair, in which he concluded on page 297: “I carefully confine all my urinal exploits to Pierre Elliott Trudeau's cursed *Charter*, the bane of our collective existence”.

When asked whether there would be any longstanding repercussions flowing from his gargantuan gaffe, Mr. Séguin had this to say: “One thing's for sure - I'll have to abdicate my position as president of *L'Association de l'argent et du vote ethnique de McGill*, effective immediately”. ■



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Thinkspeak (3), Winston-Lennon Style

by Jeff Derman (Law I)

I feel like John Lennon must have felt when he said that the Beatles were more important to the teenagers than Jesus Christ was. He hit a nerve. Albums were burned, and Lennon was roundly denounced. Yet the truth was probably the Beatles did mean more to the American youth than Jesus did. The problem was not with the truth of Lennon's statement, but with the state of America.

(At this point, I originally wrote a paragraph which related the fact that I had received an email from the Quid telling me that I might want to reconsider my submission "for my sake", that there might be "social consequences", and that the statistics I cited border on "hate speech". To that effect I was informed: "We will print your article, on one condition. You either agree to remove the paragraph about the Quid, or we don't print the article." The problem is basically that you can't imply, even with a disclaimer, that there was pressure from the Quid or anyone else to "love Big Brother". I would like to personally affirm that in fact no one on the Quid staff, expressly or implicitly pressured me to love Big Brother at any time. Rather, this comment, at the end of the article is intended with a certain degree of poetic licence, to imply a general mood of thought conformity which I am accusing all of us, myself included, to be taking part in. In the article I originally submitted I questioned the notion that homosexuality is "like race." I implicitly questioned the notion that homosexuality is "natural, healthy and irreversible." It is in reference to these ideas that the Quid so kindly gave me a heads up about possible "consequences". I thank the Quid staff for their help and sensitivity.)

I have definitely touched on a nerve here. If I cannot honestly question the basic assumptions of a powerful political position...why not? What is being hidden? What is in the dark that fears exposure?

I believe no one should be "hated" for their drinking habits, their sexual habits or their eating habits. No one should suffer

shame in public for their private behaviour. Nevertheless, it is naïve to think that promoting behaviour should proceed without regard for the facts pertaining to health consequences, both personal and societal. The truth is important. Let us inquire.

Particularly troublesome is the strong-arm rhetorical techniques used to silence honest critique. Frankly it is bizarre. Ostensibly questioning homosexuality is a "thought crime" of some sort. You must purify your thoughts or else be branded "homophobic." Like poor old John Lennon, I feel I ought to repent. "Just enjoy the music for Christ sake".

I want to re-emphasize, whatever the "facts" or the "truth" about homosexuality is, we should never resort to hatred, or discrimination. Even if, on the balance of evidence, homosexuality is seen as "unhealthy, unnatural, and reversible" this is no excuse for hatred

or belittling attitudes.

I fear we have come to a degenerate sort of discourse. It seems, if you don't full-on support "sexual diversity" you are immediately piled into a group of "haters" or "homophobes". Why the extremism? Why the name-calling and ad hominem retorts? It seems to me equally simplistic and false to believe that homosexuals simply "choose to be that way" as it is to say they were simply "born that way". I don't know how we can advance on this issue when discussions curtailed by name-calling and threats of "consequences".

I don't recommend anyone to have such thoughts as I do, since you will feel like a heretic, and maybe you are. Please save me from my thoughts, or at least have mercy on me, I swear I love Big Brother. ■

Editor's comment

This is the actual e-mail that was sent. (Or rather, one of the 13 e-mails.) Just to set the record, huh, straight. (Emphasis was added.) As always, we welcome your comments.

From: "Quid Novi" <quid.law@mcgill.ca>
To: <jderma@po-box.mcgill.ca>
Sent: Friday, November 07, 2003 1:02 PM
Subject: Re: Encore

Hello Jeff,

As one of the editor has put it, the problem is basically that you can't on the one hand imply, even with a disclaimer, that there was pressure from the Quid or anyone else to "love Big Brother," without printing your original article to give that "social pressure" context. If you want to claim that your first article was a perfectly "reasonable" way of discussing the issue, then you have to put your money where your mouth is and allow us to print it. You don't just get to claim there's some kind of conspiracy out there to "keep you down" without revealing what you actually think.

We will live up to "our high standards of free press". We will print your article, on one condition. You either agree to remove the paragraph about the Quid, or we don't print the article.

Hope this works out.

Fabien

<http://www.law.mcgill.ca/quid>

Obiter Dicta: Canned Legal Education

by Jason MacLean (Law I)

The Dean's speech has occasioned a good deal of debate throughout the faculty. I'd like to take this opportunity to try to further the discussion.

The best way to do so is to dispel a number of false oppositions.

First, students who choose to voice criticisms of the faculty are not against the faculty. If someone cares enough about the place to risk being attacked, then we should all listen closely. It is hardly helpful to respond to constructive criticism by asserting McGill's international pre-eminence. We all know how great McGill is, that's why we're here. But, now that we're here, it is incumbent upon us to contribute to the project of sustaining and improving our present standing. And regarding the Dean's point that students are at the centre of the faculty, I would go even further: Students are the very *raison d'être* of the faculty. No students, no faculty, no debate. We have a significant stake in how things are done here. We should not alienate our power.

Second, this project of institutional renewal is open to all students. It may surprise some to learn that many students interested in business law are also interested in issues of access and social justice. It is equally plausible to want to be a radical lawyer and decide that the best place to do so is within a large corporate firm-singing to the choir is fun but futile. So no matter what clubs you happen to belong to, you cannot be silenced on any subject concerning your law school unless you silence yourself.

Three more points about this. First, hierarchy among students is divisive and self-defeating, and that I am but a subaltern "law one" does not negate the truth of this statement. Second, not all instrumentalists are corporate imperialists. To be very sure, instrumentalism pervades the faculty. Third, how could this be otherwise? We are all here for the same reason-credentials. While it may be true that you do not need a course to learn anything, if you extend this principle then it follows that you do not need a university to learn anything, either. Again, there is much truth in this, but when uttered inside the citadel walls, it is not a little disingenuous.

Another misleading opposition is that

between instrumentalists and, for lack of a more accurate term, intellectuals. Many intellectuals are instrumentalists, and vice versa. This distinction has some value in some limited contexts, but we must not make the mistake of confusing an analytic category for the real thing. I suspect that it is a tiny minority of students here that have both feet planted in either imperialist instrumentalism or cosmological contemplation. Most of us have one foot in each and as such we should not lose sight of our common ground.

Whatever conflict there is between these two purported ways of thinking, it is not on this ground. Take the canned memo. It was whatever you wanted it to be: Either a perfunctory exercise to be mailed in because no grade attached or an opportunity to think a little more deeply than our passive spoon-fed lectures allow about a particular aspect of law. If grades are your thing, focus on the next memo assignment-you will get a grade for your efforts and yet another opportunity to master a skill you will use with not a little frequency as a lawyer. If ideas are your bag, the memo was a pretty interesting assignment-a case or two, probably from the Supreme Court, some legislation, and some doctrine. Yes, it was canned, but it was not inherently uninteresting. And constraints are a reality no matter what your career goals happen to be.

The same dichotomy regarding our classes similarly dissolves into thin air. You can go to class and have your rules essentially spoon-fed to you. It is pretty clear that reading the cases thoroughly is, from an efficiency-instru-

mentalist perspective, unnecessary. Cases are neatly summarized in class and in treatises like Hogg's, so if rules are your thing, you cannot say you are starving. Moreover, most of the questions posed in my section are not the deep, profound, and philosophically unsettling questions that threaten to bring the imperialist foundations of law to its knees. They are in the main (with noteworthy exceptions) the very kind of hypothetical questions that dovetail beautifully with the myopia of rule-oriented exam evaluation, and again, we ALL partake of this steady, if Spartan, diet.

If, however, you are in the overwhelming majority of students here, you will often find this diet less than fulfilling. Whereupon you may dine on the delicious irony of *prix fixe* rule-oriented pedagogy and evaluation served up with the amiable ambience of trans-systemia. Still hungry? For dessert you can satisfy your sweet tooth by reflecting upon the added irony of rule-orientated pedagogy and evaluation served alongside an ample helping of judicial ideological discretion. You see, there is more than enough for everybody.

Until, that is, it all runs out. Then what? This, and not all the foregoing fluff, is the crux of the question before us. We have to strategize our strategic behaviour. In a recent editorial in *The New York Times*, Stanley Fish, Dean of Liberal Arts and Sciences at the University of Illinois at Chicago, put the funding crunch this way: "If the revenues sustaining your operation are sharply cut and you are prevented by law from raising prices, your only recourse is to offer an inferior product. Those who say [even though you have less money] we expect you to do the job you were doing and do it even better are trafficking in either fantasy or hypocrisy." We need not agree that the only solution is to raise tuition. But the funding problem is not going away. Let's put our heads together now and formulate a winning strategy. Otherwise we'll all be eating out of a can. ■

The Unbearable Lightness of Law School

by Jason Dolman (Law II)

In *The Shawshank Redemption*, Morgan Freeman plays a prison inmate named Red, who notes that "geology is the study of pressure and time." From what I've seen at this faculty, he may as well have been talking about law school. The general consensus among students is that they don't have enough time to complete all of the assigned readings, yet they still invest their valuable time and money try-

ing to do just that. Many students feel pressured to devote their class breaks, evenings and weekends to catching up on their class readings in order to feel prepared each day. Frankly, it's depressing to see so much wasted potential. The good news is that it's not too late for you to salvage your remaining time at McGill.

It is possible to balance an enriching legal education with a social life, while still con-►

tributing to various community organizations, having ample personal time and even graduating in three years, if that's your thing. All you have to do is accept the following ideas as true: Reading course materials is an inefficient use of time. Casebooks and textbooks pale in comparison to currently available electronic alternatives. Course materials are therefore unnecessary and purchasing them is financially unsound.

1) Reading for class is an inefficient use of time

i) Class preparation is not justified by better grades

Good grades result from understanding content and being able to express it succinctly, accurately, logically and creatively. Proper understanding of course content can be realized by attending class and asking lots of questions, or by spending hours reading cases and articles. Either way, students will forget the bulk of that information before long and will have to review the material before the exams. Readers and non-readers are made equal through the natural limitations of memory. The only difference between them is that the readers have needlessly wasted their time.

Numerous students have told me that they have seen no correlation between their class reading and their law grades. I personally conducted an experiment in my second term of law school by reading all of the material for Criminal Law and none of the material for Foundations of Canadian Law. There was no difference in grades between those courses. Emboldened by my discovery, I decided to not buy any course materials for the Fall 2003 term. (I did opt to spend \$30 on a book of labour and employment legislation in order to have a handy reference for the exams. I stand by that choice.)

ii) Preparation is not a requirement for productive and stimulating class discussion

While class preparation will foster many an engaging discussion, it is by no means required. At McGill, it is common practice for lecturers to introduce any pertinent information orally before inviting students to comment. In any case, class discussions invariably gravitate towards debates about public policy, which need not be informed by any particular fact pattern or doctrine.

iii) There is a time and place for reading legal writing

It's a good idea to analyze decisions, critique badly written ones and learn to properly write legal text. One way to do this is to sit in

your poorly lit student apartment, slog through thousands of pages of judgments, and hope to retain valuable skills through osmosis. Another way to accomplish the same goal is to dedicate a whole course to this purpose. In fact, many universities have a course specifically designed to teach legal research and writing. We affectionately call ours Legal Meth. Whether or not that curriculum fulfills its objective is a different issue entirely.

iii) Opportunity cost: Time can be invested in so many valuable ways

Time not spent on class readings can be spent on a multitude of other enriching pursuits, such as volunteering at the legal clinic, working pro bono for a worthy organization, taking an 18-credit course load, reading legal materials unrelated to your courses and reading novels unrelated to law. These are not mutually exclusive options. A student who is free from class preparation has the time to participate in all of these activities. I did.

2) Casebooks and textbooks are ill-suited for exams, research papers and employment

The mere presence of textbooks and casebooks is often a comfort to students. Like compulsive hoarders, we faithfully believe that a situation will eventually arise in which these references will prove useful. Sadly, we file them away next to that crisp Spanish language textbook, the unused rollerblades and the

National Geographic collection.

Any capable student can compile a summary based on class attendance and find Pubdocs summaries for reference during exams. During exams, there is no time to go back to source material. As for legal memos and factums, course materials are obsolete and incomplete, since they are not designed as research tools. Up-to-date research tools are accessible to law students at no cost, whether in hard copy form in the library or through legal search engines online. There is no question that cannot be answered with these alternate resources. Your future employer will have comparable resources.

3) It is financially unsound to spend money on materials that are unnecessary

Course materials can cost \$500 to \$600 each term. That's upwards of \$2500 over the course of a degree, spent purely for an illusory sense of preparedness. The opportunity cost of such an "investment" is staggering. Funds not spent on course materials could be better spent on tuition, lunch, classy suits, RRSP contributions and charity donations, Law Games, a laptop, a PDA or 25 very classy dates.

Perhaps I can afford to take risks like this because I'm a B student. Perhaps I just value my time and money. As Ferris Bueller, Matthew Broderick said it right. "Life moves pretty fast. If you don't stop and look around once in a while, you could miss it." ■

If I'd Known Then What I Know Now

by Tony Hoffmann (alumnus)

It's now been a few years since I found myself lost and confused in the halls of OGDH, NCDH and the then newly finished law library. I have learned many things in the time since those heady days of orientation week activities and total confusion with respect to constitutional law in Canada. The following is a letter that I would have liked to receive way back then, before I knew what I now know...

Dear Tony,

In case you're wondering about the return address and thinking that perhaps you're hallucinating and shouldn't have gone out on that pub crawl last night after all, no you're not

dreaming. You have a long way to go still, and it's going to be difficult and traumatic, but also exciting and joyful. Since this is your future writing, and I've been there and done that, I thought you could maybe use some words of wisdom, particularly for those darkest of days. Of course, I won't be telling you what decisions to make, and how to make them; that would ruin the surprise, wouldn't it? Instead, there are some things you should know - about the faculty, about working, about life, about love - things that will prop you up when the proverbial shit hits the fan.

First, always remember that the important thing in law, particularly at McGill, is that it's teaching you how to think. Over and ►

above everything else, that's the critical thing. Don't sweat the small stuff. Only read the head notes, unless there's something that you really need to know. And if you read a judgment, usually the first and last lines of each paragraph are sufficient. Two reasons for this: first, you won't have time to read everything; and second, it's not worth it - Judges are a verbose lot and, especially where you are now, you'll tend to get lost in the details and miss the point. That, in fact, is a great way of saying it: Don't let yourself get lost in the details. Remember what you're there for - to learn how to think.

Of course, you're now thinking to yourself "what have I got myself into?" Don't worry. You're not alone. Whether they show it or not, talk about it or not, everyone around you is as scared and nervous as you are. That feeling like "I just want to die" - well, it's the faculty of law; you get used to it. As you move through the years, you may find that people jealously guard their class notes and summaries - Don't worry about it and them. Law students are famously hypocritical about such things - they're happy to take your notes off your hands, but less happy when you ask them for a copy of the resulting summary - go figure. Again, don't worry about it - give anyone who asks your summaries. After all, you've already done the work, right? Also, it's just a nice thing to do - and nice things are usually few and far between at the faculty, so you have to find them where you can. If you do

nice things for people, chances are pretty good *wink*wink* that they'll end up doing nice things for you. Doing nice things, and saying nice things is also a really good way to find the really good people at the faculty - and there are many. They're just hiding like you are!

I'm sure you've learned already that law school is one big pressure cooker, and the most important thing is to figure out how to blow off some steam. You don't want to be a part of that. It is thoroughly hazardous to your health. Though I know it will be hard, try not to fall prey to the trap of comparisons and rankings. When someone asks you offhand how you did on exam, all you say is "I did fine" and leave it at that. Note that while keeping you above the fray, this has the added bonus of driving the asker absolutely insane, which is enormously fun to watch. Take the time, and make the time, to see what else life has to offer - it will provide a great counterbalance to everything that happens in the faculty.

And now for what may be the hardest part. Yes sir, we're talking here of the fairer sex. I'm sure you've figured out by now that McGill law is a bit (well, more than a bit) like Beverly Hills 90210. And of course, just like the show, there are bound to be gorgeous women that catch your fancy. A word of warning: There are fabulous, amazing, beautiful, intelligent women at the faculty - in fact, you might just be gaga over one right now - but be

aware of what you're getting yourself into. Some may be younger than you, some older, some the same age, but they all have one thing in common - they're lawyers too. It's a double-edged sword - they're great people - which is a good thing - but they're all lawyers - which is a bad thing.

I'm sure - in fact, I know - that there is much happiness and love in front of you. But where there is happiness, there is inevitably also sadness - often catastrophic sadness. You can't have one without the other, but the good times should always outweigh the bad - if they don't, walk away and don't waste your time. That's the one thing you can't get back. Remember that if it goes bad, that's your nightmare scenario, cause you can't get away, and that always ends badly. Perhaps lawyers aren't meant to be with lawyers that way. I didn't know back then, and I don't know now. If you remember one thing, remember this: there are two ways that a relationship can go at the *end* of Law School. Either you get engaged, or you break up. One is good and the other is bad, and there is no in between. Be careful that you don't end up with the short end of the stick, because you have enough to worry about with bar school and getting a job. Finally, just remember to break your own trail. There is no need for you to tread the beaten path, at school or after. Life has a funny way of working itself out when you least expect it to, and no matter how daunting the task seems to you now, it's a piece of cake! ■

The Indian Act, and the Status of First Nations Women in Canada

by Adrian Picard (Law II)

On November 12th, the Aboriginal Law Association, in conjunction with the Women's Caucus, hosted a lecture with Michelle Audette of the Quebec Native Women's Association. The topic was the marginalization of First Nations women as a result of the Indian Act, and consequent measures designed to ameliorate its inadequacies.

Until the early seventies, federal aboriginal policy respecting Indian Act Status affected women differently than it did men. If a First Nations man were to marry a non-aboriginal woman, his status remained unchanged. His new wife would gain Indian status. Conversely, if a First Nations woman married a non-aboriginal man, she would permanently

lose her status. This contributed to an ever-growing marginalization of First Nations women. They were formally (and often practically) removed from their traditional communities, while never gaining acceptance in non-aboriginal life.

This policy derived from a long-standing attempt by the federal government to assimilate aboriginal peoples into European-descended society. The establishment of residential schools contributed as well. Until the early 1980s, the federal government removed thousands of children from their families and communities. The children were then placed in group homes, often hundreds or thousands of miles from the places in which they grew up,

and instructed in 'appropriate' language, religion, dress and culture. Not only was physical, psychological and sexual abuse common in residential schools, but also many families grew up feeling as if they had failed to raise their own children. First Nations communities in large part lost their traditional methods for ensuring gender equality and individual identity.

Changes designed to modernize these policies have often created new problems. In the 1970s, the federal government ceased determining the status of Aboriginal women. The authority now resides in individual band councils. Many women were permitted to return to their communities. Many band councils, ►

What Kind of a Welcome Do We Provide?

by Howie Kislwicz (Law II)

Tomorrow, November 19th, is the next John Peters Humphrey Human Rights Workshop. We are fortunate to have Me Catherine Gauvreau of Action Réfugiés Montréal (ARM), who will be speaking to us on the challenges that refugees and would-be refugees face as they navigate Canada's detention system. Many individuals are unfamiliar with the Canadian legal system and unsure how to access their rights. ARM helps refugees by providing services that enable them to claim their right to asylum. ARM also runs a Matching Program, in which it pairs newly arrived refugees to local volunteers, who help them adapt to Canadian society. They are a non-profit organization founded in 1994.

Me Catherine Gauvreau is a member of the Quebec Bar. She has been involved in various refugee organisations for the last 15 years. Since March 1999, she has been the detention coordinator at Action Réfugiés Montréal. Through this programme she visits the "Refugee Prevention Centre" in Laval to determine who is there and on what grounds. Many individuals are held in detention while the Canadian government attempts to deter-

mine their identity. As refugees, they often have no identity papers so this is frequently a long process. Others are held because they are considered a danger to society or because the government thinks that they pose a "risk of flight".

The John Peters Humphrey Human Rights Workshop Series is a fun and interesting way to learn about contemporary legal issues in a relaxed and un-competitive environment. The Workshops are designed to inform, but also to help students increase their advocacy skills. The interactive exercises are designed to encourage creative and critical thought. If you are tired of just cramming information into your brain and waiting to see what happens when it ferments, come out and see how much fun it is to apply some of what we are learning!

Comme d'habitude, nous laisserons les matériaux préparatoires au bureau de référence de la bibliothèque. Ils seront disponibles le 17 novembre. Pour s'enregistrer, envoyez un courriel à Howie à : hkislw@po-box.mcgill.ca. ■

(Indian Act cont'd)

however, have constantly prevented "dis-stated" women from rejoining their own formal heritage and culture, hoping to discourage women from marrying outside of their nation, and also punishing those who did so in the past. As a result, many First Nations women remain outside of their own traditions and cultures.

One partial solution for some of these problems is aboriginal self-government. Federal and provincial laws have largely proven inadequate. Aboriginal women are the most marginalized group in Canada. Aboriginal people have the highest rate of suicide in the world. Self-government allows for traditional cultural and social methods to address problems that are specific to aboriginal communities. It also allows for First Nations people to regain responsibility for their own lives and futures.

Wholesale change, however, cannot work immediately. Transitory measures, such as the application of the Canadian Charter of Rights and Freedoms, must be used to insure that sexist and unequal policies within bands and aboriginal groups themselves do not further jeopardize First Nations women.

Despite the challenges, the value of self-government, with equal and fair representation for native women, is great. Pressure on the Canadian government to provide real legal equality is also necessary. The reward, however, is an improved status for First Nations women in Canada, and more specifically, a better ability for women to take meaningful control over their own lives. ■

Represent

by Jeremy Waiser (Alumnus II)

This article was originally scheduled for submission in March of 2003. For administrative reasons, only now has it become possible to make this document available.

On February 18, 2003 Om Radsady, a top advisor to the leader of the main opposition party in the Cambodian Parliament, was walking out of a Phnom Penh restaurant bordering the Mekong River with six colleagues when a motorcycle pulled up with two men on it. The man in back rushed toward the group and demanded to know which one was Radsady. Radsady turned to

run and was shot twice in the back. As he fell, the assassin bolted for the motorbike, only to be ordered back by his accomplice to get Radsady's mobile phone. He did, and then the two men sped away. Radsady died in hospital two hours later, a bullet having descended through one of his kidneys and severed the femoral artery in his right thigh.

03/11/03 – For the last hour, nine people have sat at the long mahogany table in the conference room of the ruling Cambodian People's

Party (CPP). Only two have spoken. Six of the nine sit on the side closest the entrance, most taking notes furiously. They are the team from the UN Cambodia Office of the High Commissioner for Human Rights (COHCHR). The other three sit opposite; the man on the left is sitting quietly, the man on the right does nothing except periodically refill the glass of water of the man in the centre.

The man in the centre is Say Chhun, Secretary General of the CPP. He is one of the two speakers. The other is the man sitting directly across from him, Special Representative of the UN Secretary-General for Human Rights in Cambodia (SRSG), Professor Peter Leuprecht. What has up until this point been a civil, if unproductive, discussion is turning into what Professor Leuprecht had predicted it would turn into: a mess.

As Leuprecht broaches the subject of ►

the killing of Om Radsady, one is reminded of the opening scene of *Indiana Jones and the Temple of Doom*, where Jones and the dastardly Lao Che negotiate over a priceless diamond in a Shanghai nightclub. As Jones speaks, Lao Che begins to laugh devilishly, knowing Jones has just drunk a martini laced with arsenic. For no apparent reason, Say Chhun also chuckles as Leuprecht speaks. Every time he speaks. After a few minutes of this, Leuprecht glances over to Margo Picken, Director of the COHCHR, with a look that seems to ask, "What the hell is *that*?"

"Yes, a terrible tragedy, this robbery," Chhun murmurs finally, towing the official government explanation of the death, which the opposition parties and NGO community has said was made to look like a theft. "Mr. Secretary," Leuprecht presses, "what I note is that when an opposition politician is killed the authorities have a tendency to say the killing is not politically motivated, even before anyone is caught, even before an investigation is underway." Quiet giggle. "Mmmm, yes, the people of Cambodia are very sorry about this tragedy. The authorities have found no evidence of politics in this killing."

As much as anything else, working and living in Phnom Penh is an education in the legacy of a nation. The stew of a thousand years' history mixes in plain sight. No restaurant or family home is without a painting of the wondrous 12th century Angkor Wat temple, Cambodia's enduring national treasure, and no family is whole; all have lost someone – sometimes everyone – to the genocidal Khmer Rouge regime of 1975-1979. The Vietnam-backed government that took power after the Vietnamese army drove out Pol Pot's troops has been in power ever since.

In 1991, the Paris Peace Agreements established the United Nations Temporary Authority in Cambodia (UNTAC) to effectively oversee the country's transition to democracy. As a result, Cambodia, in spite of its problems (or perhaps because of them) became a model of UN involvement. There was no nation with a larger UN presence. The 'T' in UNTAC eventually gave way to a more permanent presence; today there are no less than twelve UN agencies and offices in Cambodia covering everything from refugees to AIDS.

Whereas from '79 to '93, Vietnam and the USSR/Russia were the dominant foreign presence, now a whole host of states make up

the active diplomatic community in Cambodia. International organizations like the World Bank and the IMF have also weighed in heavily in the past decade. One of the brightest spots in the country's slowly developing democratic system is its NGO community, with strong domestic and foreign representation. On his missions to Cambodia, the SRSR meets with representatives from each group.

Though his meetings with government officials are nearly always civil,¹ Leuprecht has ruffled more than a few feathers in the ruling CPP. After he issued a public statement through the COHCHR condemning police violence against a group of forestry demonstrators, Prime Minister Hun Sen was not pleased, and gave vent to his wrath in a public condemnation of the SRSR and the COHCHR.² Hun Sen is today a reasonably respected leader in South East Asia, but his legitimization was a long time in the making. In 1975 he was a low-ranking Commander in the Khmer Rouge. By '79, when it was clear the Vietnamese would succeed in pushing out the Khmer Rouge, Hun Sen had changed allegiances. He was installed as a Minister in the new government and later ousted the chosen Prime Minister with the assistance of Vietnamese soldiers. The government for all intents and purposes was controlled by Hanoi.

Strategies for bringing about reform by the government vary wildly among international and non-governmental organizations. For the NGOs, it's full steam ahead; the government is corrupt and its policies are self-interested – they demand drastic reforms. Then there is the diplomatic corps, which can be crudely divided into two camps. The first, featuring Japan, France (Cambodia's former colonial power) and others, is financially and politically supportive of the government. The second, featuring Australia, the U.K., the U.S., Germany and others can be supportive but is stalwartly critical of government foot-dragging on legal and judicial reform and corruption.

The approach of the first group is, at times, a source of frustration to those pushing for reform and improvement in human rights. Those who are critical of this group, including Leuprecht, understand all too well that the government must feel the pressure of the donor community if any change is to result.

To its credit, no country gives more support to Cambodia than Japan. The aid, however, is not extended to NGOs ("We are not a funding organization," says the Ambassador). The unreserved French Ambassador is happy

to discuss France's technical cooperation in Phnom Penh, or to detail the latest construction project. But raise an issue related to human rights and his eyes glaze over like he's had one too many cognacs. The significant sale of French arms to the government and the military training it provides are not discussed. The contrast in French and American policies and priorities toward Cambodia is ironic (the U.S. being the most unforgiving critic of the government) given French accusations of morally bankrupt U.S. foreign policy.

The dedication of those fighting for reform and improvements in the lives of Cambodians is striking. Henrik Alffram, a Swede who heads up the Protection and Policy Team at COHCHR has spent the last 6 years investigating violence and human rights abuse cases.³ His wife, Eva Galabru, is the Director of the environmental watchdog Global Witness in Cambodia. After Global Witness criticized the authorities following the police killing by electric baton of a protester at a forestry demonstration, the government cancelled the organization's status as Cambodia's official forestry monitor and launched criminal proceedings against Ms. Galabru personally. The charges were recently dropped. Before coming to Cambodia, Alffram worked in Rwanda for the UN Office of Human Rights until mid 1996. A few months later, his replacement and the rest of the office staff in Cyangugu province were killed by a Hutu militia. Their decapitated bodies were found close to the jeep they were riding in through the beautiful countryside.

Alffram is soft-spoken but his indignation simmers at times, such as when Cambodia announced its nomination to the International Criminal Court. Bunchhat Heng Vong was formerly the Chairman of the Council of Jurists, the government body which is supposed to approve draft bills before they can be sent to the National Assembly. Vong made an art of demanding payoffs from the bill's sponsoring individual or organization before signing off. His *coup de grace* was the \$30,00 he demanded (and received) for the *Draft Law on Anti-Corruption*.

Also under the auspices of the Protection and Policy Team is the growing problem of human trafficking. Mainly affected are women and children, the majority of whom are forced or pressured into prostitution, rented out or sold, mostly by their parents or relatives, or abducted. In his December report to the Commission on Human Rights on the human rights situation in Cambodia, Leuprecht expressed concern about the ►

judiciary's failure to enforce the laws on trafficking:

Victims' claims are often dismissed, or they are treated as criminals rather than receiving protection. An NGO reported that in 2001 in about 94% of the cases of trafficking it dealt with, the courts failed to punish those responsible. Convictions, when they occur, generally concern persons at the lowest levels of the trafficking chain, or family members who have received payments for their children. In June 2002, police raids "rescued" a group of 14 Vietnamese girls from the brothel district of Svay Pak. No one has yet been prosecuted for trafficking or procuring these girls, yet most of the victims were subsequently sentenced, as adults, to prison terms on immigration charges.⁴

The family unit did not survive the Khmer Rouge years; it had to be reborn. Tight-knit families are now the norm in Cambodia, and affection is dished out in abundance. Whether poor or otherwise, children invariably appear happy and smiling and are fond of shouting "Hallo!" to ex-pats as they pass by on their scooters and motorbikes. They make games out of nothing – shuffleboard with their dusty plastic sandals, petanque with coconuts.

Margo Picken's assistant, Huan Touch ("Hoon"), a father of five, wakes most mornings at 5:00 a.m. for a jog from home up to the riverside and back. He takes university classes every evening after work. His computer skills are expert. Like most Khmers in the office, Huan eats lunch at home every day with his wife and kids. Huan met his wife in the Thai border camp where he lived from 1979 to 1991 following the Pol Pot years. Over a lunch of Tom Yam soup and Coca-Cola, Huan expresses his concern for his children. Cambodians, he says, are not motivated enough. They work, but they watch too much TV. In his home province of Takeo, people sit and talk for hours. He cannot stand it. He is not critical of the government unless asked, and then he closes the door before speaking his mind with quiet vigor. He laments the problems, the terrible poverty and the corruption, but rules out any role for himself in government or politics. "[To be in Cambodian politics], you must compromise yourself. I cannot be like that."

Asked if he is happy with the lunch, Huan misunderstands the question (his English is

good but not great) and reflects for a moment. "No, not so happy. It not so easy, during Khmer Rouge time and during Vietnam time. You have to work very hard." Now, he says, he is happier.

On each of his missions, Leuprecht meets with His Majesty, King Norodom Sihanouk, who was appointed to the throne by the French in 1941 because they thought they could easily manipulate the teenager. Instead, Sihanouk outmaneuvered both the French and the rebel forces to take the reigns of power and gain independence for Cambodia. In the early years of the Vietnam War, he refused to cooperate fully with the Johnson administration, believing that communist rule over all Vietnam was inevitable – the price of loyalty to America would be too high once the South was conquered and the Vietcong looked westward. In 1971, while out of the country for medical reasons, the King was overthrown and spent most of the decade in Beijing. After 1979, he was returned to power as King, "to reign but not to rule." He is a living monument to 60 years of turmoil in the region.

On the killing of Om Radsady, the King told Leuprecht that the authorities always say it is not political. "But even in the provinces, the motivation is clearly political. We may not have proof, but we know it." The culture of violence comes from the time of Pol Pot, he said, and the killings must be seen in this context. The King referred to an incident of violence at a late February wedding in the province of Preah Vihear. Twelve people were killed when a grenade exploded on the dance floor. Cambodians are sometimes violent, said the King. "It's in our nature. Like a God with two faces, good and bad."

¹ There are exceptions. In his recent meeting with the number two man in government, Senior Minister Sok An, Leuprecht addressed the government's policy of forest concessions to foreign companies. As Sok An responded, his voice took on the first hint of irritation. "You say you are concerned we are selling off Cambodia's forests to foreign companies. You say the law does not allow us to sell our land to companies that are majority foreign-shareholder owned. You do not have to tell me the laws of *my own country*. We are not selling away anything. We only *rent* the land to these companies." "Minister," replied Leuprecht, "your concessions last as long as 90 years. A forest can be leveled in two years. The concessions you've made cover a huge portion of the forests in the country – forests that local people depend on for half their food

source and livelihood. Unless this trend is reversed there will be a human and ecological disaster for this and future generations."

Sok An: "This is our law! Who are you to tell us to change our law?"

² Hun Sen said the following during a speech in December, 2002 to Cambodia's judges and prosecutors:

"In the case of this false allegation by Mr. Leuprecht, what responsibility shall Leuprecht take? I am not the problem maker — they are. Thank you very much to H.E. Leuprecht. Don't forget that if you come and see me as an enemy, I will always react. For Hun Sen says yes only on the right things but never yes on the wrong ones. I think it was good that Mr. Leuprecht did not raise this case with me, because I would not have been friendly. It depends on you, so if you speak to me as a friend, you would be my friend, and if you speak to me as an enemy, you would be my enemy."

³ One recent case which came before the Phnom Penh Municipal Court involved one Chhoeun Sovann, a 35 year old woman from the province of Kompong Thom, who had fallen in love with her son-in-law – which was against her husband's wishes. To escape with her lover she killed her husband with repeated axe blows to the groin. Sovann is not yet behind bars. Prosecutors say they cannot find her, so a verdict was handed down in absentia. After several hours of deliberation, the judge decided to punish Sovann with 15 years in jail. He told reporters, "In Cambodia, it is *totally* unacceptable that a wife should kill her husband by smashing his genitals."

⁴ Also from the report: In a hearing against these girls on illegal immigration charges at the Phnom Penh Municipal Court in August 2002, charges were dropped against three minors who had supporting documents from the Svay Pak commune showing they were born in Cambodia, and against one other who told the court that she came to Cambodia when she was a one year old. Six girls officially recognized as 18 years of age were sentenced to two months imprisonment, along with one other officially recognized as aged 16. Three girls officially aged between 19 and 22 were sentenced to three months imprisonment. These ten were ordered to be deported back to Vietnam after serving their prison terms. Following completion of their sentences, they were transferred to the Immigration Department's holding centre near Pochentong Airport. However, when a concerned NGO contacted the centre to arrange for the girls' reception at a shelter in Ho Chi Minh City, the whereabouts of the girls could not be accounted for, and there is concern that they may have been released in exchange for payments to Immigration Department officials. The case reflects a systemic failure of the judicial system to uphold the rights of victims and to hold those responsible to account. ■

Micturating into the Prevailing Breeze

The Making of the American Constitution

by Daniel Moure (Law III)

Every society has an origin myth that serves to create a sense of identity and to legitimate the existing social order. According to the liberal democratic origin myth, known as the social contract, individuals chose to leave behind the state of nature and form a commonwealth for their mutual benefit. They discussed and agreed upon the fundamental principles that would govern them and their progeny, and they immortalized their covenant in a constitution. The closest that reality has ever conformed to this myth was in 1787, when the American Constitution was drafted.

There can be no doubt that the United States was by far the most democratic state in the world when it was founded. Nonetheless, those who drafted the American Constitution clearly understood that their main task was not to ensure a democratic form of government, but to protect the rich from the "democratical jealousies of the people," as Alexander Hamilton put it at the time.

During the war, most revolutionary leaders emphasized the sovereignty of the people and the supremacy of the legislature over all other branches of government. Such sentiments served well during the Revolution. But after the war, the former revolutionary leaders realized that the Articles of Confederation threatened their interests, and some even began advocating a return to monarchism. The Articles of Confederation had created a loose federation with a great deal of local state autonomy. Small farmers constituted a large debtor class and, particularly in northern states, had begun to lobby state Legislatures successfully for debt relief and paper money, to the detriment of the wealthy creditors concentrated in the coastal cities. And some farmers had begun agitating for the complete abolition of debt and the equal distribution of property.

The weak federal government also posed significant problems for land and public securities speculators. After the Revolution, the new federal government converted its war debt into new public securities. But the feder-

al government lacked a tax base from which to pay in the interest on, let alone redeem, those securities. The market value of the securities fell and American speculators purchased them at deep discounts in the expectation that a stronger federal government would redeem them at face value. The success of this speculative gamble depended upon the creation of a strong federal government with a significant tax base. Soldiers had been paid for their services during the Revolution in scrip, or titles to land. Speculators purchased these titles from soldiers at low prices, also in the expectation

Those who drafted the American Constitution clearly understood that their main task was not to ensure a democratic form of government, but to protect the rich from the democratical jealousies of the people.

that their value would increase. But they remained worthless until the Aboriginal populations could be subjugated, which was impossible without a strong federal government possessed of a significant army.

Other interests also stood to benefit from a strengthened federal government. Unlike the farmers, manufacturing and mercantile interests wanted tariff protection against British competition. Southern slaveholders, who preferred free trade, were willing to compromise in exchange for protection against slave revolts. Accordingly, 55 delegates from the 13 states met in Philadelphia in 1787 to draft a new constitution. The delegates were not elected by suffrage holders, but appointed by the state Legislatures. Of the 55 delegates, over 80 per cent had significant property interests, primarily in personal property; at least 31 were lawyers; two were future American presidents; and several would later hold other important public offices. The delegates included many of the wealthiest Americans, but no delegate represented the interests of small farmers—who made up the majority of the population—or urban workers. Nearly every single delegate expressed concern over the "evils," as Massachusetts delegate Elbridge Gerry put it, that "flow

from the excess of democracy."

James Madison, one of the principal delegates at the Convention and the fourth president of the United States, most accurately expressed the purpose of the proposed constitution in *Federalist* 10. Madison distinguished a democracy, by which he meant the direct democracy of the ancient Greek *polis*, from a republic, which he defined as a federal system of representative government. According to Madison, the gravest threat to governments are factions, and "the most common and durable source of factions has been the various and unequal distribution of property." Small factions can be controlled easily through majoritarian measures, but Madison's principal fear was that democracy could result in a "faction" of the majority opposed to the unequal distribution of wealth.

Such a faction, if not controlled, could potentially agitate "for paper money, for an abolition of debts, for an equal distribution of property, or for any other improper or wicked project...."

Aside from an overtly despotic form of government, Madison argued that there were two methods of protecting against the formation of such a faction—redistribution of wealth or institutionalized limits on the majority's potential to expropriate the wealthy minority. The former being unacceptable, Madison argued for the latter. Under a too-democratic system, the propertied could not be sure that "enlightened statesmen" would always be elected, so Madison's solution was to limit the ability of the majority to "carry into effect schemes of oppression." A republic was the most effective method of protecting against such schemes for two reasons. First, the delegation of power to a small number of citizens would increase the likelihood that inappropriate perspectives could be filtered out. Second, a republic would increase the "number of citizens and extent of territory which may be brought within the compass of... government." The second reason was the most important of the two: "Extend the sphere and you take in a ►

greater variety of parties and interests; you make it less probable that a majority... will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in union with each other. Besides,... communication is always checked by distrust in proportion to the number whose concurrence is necessary." Few political theorists have described the virtues of representative government better.

Throughout *The Federalist*, Hamilton, John Jay, and particularly Madison emphasized the importance of institutional limits on the majority's potential to expropriate the rich. Madison, for example, was alarmed that the "legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex." Madison also defended the Senate as a necessary "defense to the people against their own temporary errors and delusions." And Hamilton defended the presidential veto of legislation because it would protect against the adoption of bad laws. Hamilton acknowledged that a president could abuse his power by also vetoing good laws, but he claimed that the potential abuses were outweighed by the benefits of the veto power: "The injury which may possibly be done by defeating a few good laws will be amply compensated by the advantage of preventing a number of bad ones." These excerpts are only a small sample of *The Federalists* authors' fears of the threat of democracy to property interests. Nor were these three authors alone in expressing such fears. Almost every single delegate to the Convention expressed similar sentiments. I have cited only from *The Federalist* because it is widely regarded as the most important commentary on the American Constitution.

As Beard argues, the American Constitution structured the federation precisely to limit the threat of a majority faction. The House of Representatives was to be elected immediately by "the People," or at least by the 30 per cent of the male population possessed of suffrage. The Senate was to be elected by the state Legislatures, and the president by electoral colleges whose members were elected by the public. And the "crowning counterweight" to the entire scheme was the federal judiciary, appointed by the president. Furthermore, members of each branch of the federal government held tenure for different periods. The House was elected for two years, the Senate for six, one-third of which was elected every two years, the president for four years, and the judiciary was appointed for life.

Any temporary errors and delusions of the people would need to be sustained for an entire generation before a majority faction could capture every branch of the federal government.

The new Constitution strengthened the federal government for the benefit of the wealthy. The contracts clause in Article I, section 10 prohibited states from modifying the terms of contractual agreements, thereby ensuring that farmers could not use state Legislatures to reduce their debt loads. Just in case, the Constitution also permitted judicial review of state legislation. The federal government acquired all authority over the minting of money, thereby eliminating the threat of paper money, and most authority over international trade, including tariffs. Slaveholders received a guarantee that slavery would not be abolished for at least two decades. The stronger federal government made possible the subjugation of the Aboriginal populations and hence the fruition of land speculators' desires. And the federal government, with its new taxing powers, was constitutionally required to pay its debt. In describing the advantages of a republic over a direct democracy, Madison left out one of the most important benefits of all—the increased amount of wealth that can be squeezed out of a large population than out of a small one. According to Beard, securities speculators made approximately \$40 million in profit from this constitutional requirement. That figure represented approximately ten per cent of the taxable value of all the lands in the 13 states and a charge of \$10 for every inhabitant of the United States. One tax created for this

purpose was the Whiskey Tax, which affected small farmers in particular and led to a farmers' revolt in western Pennsylvania in 1794. But Hamilton, by then Secretary of State under George Washington, sent federal troops to crush the rebellion and thereby defend the good law.

Approval of the new Constitution was submitted to delegates who were elected by the general electorate. In total, about five per cent of the general population, or 160,000 people, voted in the elections for ratification delegates. About half voted for candidates opposed to ratification, though most of those candidates, once elected, were persuaded through various measures to change their stance. Thus was ratified a constitution made by and for "We the People." It is certainly true that the United States was the most democratic state at the time. Nonetheless, the process of drafting and adopting the constitution demonstrates that myths often disguise as much as they reveal. ■

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Chico's Big Night Out

by John Goudy (Law IV)

Well, Chico played another wild one on Sunday night. With a depleted roster, late arrivals and after-game festivities on the minds of all involved, the team pulled together and beat Blades of Steel (more like mica) 4-3 (or 5-3, depending on who you believe).

Even before the puck was dropped, two problems plagued the Chico side. First, the game was at 7:30 p.m., a far cry from our normal 11:30 p.m. time-slot (courtesy of a McGill Intramural Administration that loves us). Second, the Als were playing in the East final. For those reasons primarily, Jason C., Steve L. and Sam A. all missed the start of the

game, and left the one line that did show up on time gasping for breath during the first 10 minutes. Also, the team was missing Dennis G. and Matt S., and Dave "the Hammer" Lametti, out with a serious drywalling injury. Needless to say, Chico was going to have to step it up and give 110% on Sunday night.

They did. After falling behind 2-0 early, Chico scored four unanswered goals, and was backstopped by another stellar performance by rookie goaltender Paul C. Meanwhile, at the other end of the ice, Chico peppered the Blades of Swiss Cheese goalie with plenty of pucks (really, he played well and the score could have been a lot worse). ►

Lettre de votre représentante au Faculty Council

Montréal, le 13 novembre 2003.

Chères et chers camarades,

Étant donné les contraintes sous lesquelles nous oeuvrons en ce moment, je vous prie de me pardonner d'enfreindre la recommandation, certes bienveillante, de l'une des éditrices de ce journal, à savoir, avant de soumettre quoi que ce soit, de le laisser reposer quelques jours... Mais bon, il reste vingt-deux minutes avant l'heure fatidique, et puis, de toute façon, ayant été élue au Conseil de la Faculté en vertu de discours prononcés en trois minutes ou moins, la qualité temporelle de mes fonctions ne saurait être trop discutée ici. En tout cas, l'objet de cette lettre est de vous donner un petit topo, bref et de nécessité incomplet, de ce que nous avons fait jusqu'à présent comme vos représentants. (Je parle à titre personnel ici, mais le travail a été fait en groupe, dans un bon esprit d'équipe, mettant en valeur les intérêts et qualités de chacun.)

Nous avons fait des progrès sur la reconnaissance des crédits pour les langues, dans le contexte plus vaste des crédits hors-droit. Ensuite, à la suite du premier conseil de faculté, le principal et vice-chancelier de l'université, Heather Munroe-Blum, a proposé de consulter avec nous. Entre autres, il s'agit de développer ensemble une vision collective des directions que veut prendre l'université dans les années à venir – apparemment sur la logique d'un 'plan de cinq ans', dont parle aussi notre auguste nouveau doyen, le professeur Kasirer. Enfin, il y a à signaler quelques publications récentes, dont une oeuvre par la professeure Prémont sur la métonymie dans le droit, et une autre... dont les détails m'échappent!

En passant, les notes officielles de tout cela, que ce soit du Conseil de Faculté (qui se passe une fois par mois) ou des meetings bimensuels de l'AÉD (— l'association des étudiants en droit, "a.k.a. LSA") sont du bel et bien du "domaine public" et peuvent être consultés sur "pubdocs" ou bien en quelque endroit physique de la fac – je m'informerai où... A la prochaine et passez de belles semaines de 'mise au point'...

En vous laissant, je n'en doute pas, sur votre faim,

Je demeure,

Your humble servant,

Sylvia Boss

Membre étudiant du Conseil de Faculté

P.S.: L'AÉD cherche en ce moment, je crois un ou des bénévoles pour compléter son équipe de traduction.

P.S. (2): Les **bottins** sont maintenant disponibles, gratuitement, au bureau de l'AÉD. C'est le répertoire téléphonique de tout ce beau monde – ou cosmos plutôt? – à la Faculté de Droit.

P.S. (3): Dans une merveilleuse initiative, Dave Dubrovsky inaugure **une heure chaque semaine** lors de laquelle un de nous sera à votre disposition pour parler de ce qui vous tient à coeur. C'est le lundi de 15h à 16h que ça se passe, dans le bureau de l'AÉD au sous-sol.

However, goals were scored on all kinds of shots. Steve L. attempted to knock his goal in with the slowest, most off balance shot into an empty net ever seen at McConnell Arena. He managed to feather the puck across the line, but looked pretty wobbly (maybe too much fun watching the Als beforehand). John G. batted a Dinesh M. shot out of the air and into the net with a tomahawk chop (clearly above the crossbar) that the referee just didn't see. Finally, Chico scored on a 4-0 rush into the offensive zone (by this point, the Blades of Lethargy had melted into the ice), but not on the first attempt. Yes, we screwed up a 4-0, but had enough time to recover and score.

In the end, Chico had scored 4 goals or 5 goals (this is disputed), despite the shock of the early start time, and carried the day. Not to say that 7:30 p.m. was too early, though, since it gave us our first chance for after-game festivities (beyond the usual tea and crumpets). After post-game tea, we headed down to McLean's Pub on Peel to catch the end of the Eskimos-Roughriders game and to share some wings and tea. All in all, it was a good night for Chico. ■

CPO Newsletter

November 14th, 2003

Bonjour à tous!

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- 12) FOREIGN LL.M. PROGRAM

1) PLACEMENT STATISTICS

Pour ceux et celles qui ont participé aux U.S., Toronto et East/West OCIs : Auriez-vous l'amabilité de me faire parvenir vos résultats de placement. En d'autres termes, laissez-moi savoir si vous avez trouvé un poste grâce à ces processus de recrutement. Sachez que ces résultats resteront confidentiels.

2) POSTINGS (SUMMER PROGRAM, HUMAN RIGHTS, FULL-TIME, SUMMER JOBS)

****Criminal Law Policy Branch, Criminal Law Division, Ministry of the Attorney General, Ontario (Summer Opportunity):** The main function of the Branch includes providing advice on reform of the Criminal Code and on operational Crown policy. In particular, the Branch formulates Crown policies and practice memoranda intended to provide guidance to Crown Attorneys on the exercise of their independent prosecutorial discretion.

You will be actively involved in several areas of the Branch's work including legal research. Familiarity with Windows and MS Office suite is required. You will be assigned to a mentor who will work with you to ensure the best possible work experience. Please submit a copy of your résumé and cover letter by February 27th, 2004 to:

Robert Lecour, Coordinator of Finance
And Administration
Criminal Law Policy Branch
Criminal Law Division
Ministry of the Attorney General
9th Floor, 720 Bay St.
Toronto, ON M5G 2K1
Tel.: (416) 325-4854
Fax: (416) 314-6646
Email: Robert.Lecour@jus.gov.on.ca

Brigitte's note: I do not think this posting is included in the Summer Booklet provided to you earlier this Fall.

****Minden Gross will be hiring students for the summer of 2004.** They are a medium size full service firm located in the financial district in Toronto, ON. They are planning to hire 2-3 summer students to work in their 3 main service areas: corporate/commercial, litigation and real estate. Successful summer students will be offered articling positions for 2005/2006. Summer salary: \$1,300.00 per week. Deadline: January 30, 2004. Students granted an interview will be contacted by February 11, 2004 to arrange a mutually convenient time to meet with them in Toronto during the first part of the week of February 23, 2004.

Applications should include:

- résumé and cover letter
- undergrad. transcripts
- law school transcripts, including first term transcripts for the 2003/2004 academic year
- list of courses for the second term of the 2003/2004 academic year and
- references

Attention:
Samantha Prasad Weiss
Suite 700, 111 Richmond Street W.

Toronto, ON
M5H 2H5
Fax: (416) 864-9223
Email:
studentapplications@mindengross.com
Web: www.mindengross.com

**** ACADEMY ON HUMAN RIGHTS AND HUMANITARIAN LAW, AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW**

INTENSIVE THREE-WEEK SUMMER PROGRAM, JUNE 1-18 2004

The registration period for the summer 2004 Academy on Human Rights and Humanitarian Law is now open, and they will be accepting applications through May 14, 2004. Details of this program, course listings as well as applications, are available on their web site at <http://www.wcl.american.edu/humright/hra-academy>.

****Researcher on Rwanda Africa Division (based in Kigali) (New York, NY)**
- Founded in 1978, Human Rights Watch monitors and promotes human rights in some 70 countries worldwide. It is known for its investigations, reporting and advocacy campaigns.

DESCRIPTION: This is a full-time appointment for an initial period of one year as of January 2004, with the possibility of extension. The researcher will be based in a field office in Kigali, Rwanda. Responsibilities include: Monitoring, investigating and documenting human rights violations in Rwanda, and developing local and international advocacy strategies to bring violations to the attention of the government and the international community; Mentoring local groups to improve efficiency in gathering, analyzing and presenting information; building their advocacy capacity; and helping them obtain training and other support from international resources; Writing concise and accurate briefing memos, short reports and press releases as needed, with a quick turnaround time; Effectively advocating for improvement of human rights with regional governments, the United States, the European Union, and intergovernmental organizations; Organizing and supervising the field office; Applying sound judgment to investigation, reporting and advocacy work and advising on new research and advocacy opportunities; Responding to inquiries from the press, ►

public, and colleagues in the human rights community.

REQUIREMENTS: The researcher must be flexible and able to respond quickly to crises and conflicts as they occur, producing excellent written material under tight deadlines. An advanced degree in a relevant field (international relations, journalism, law, history or the social sciences) as well as experience in human rights work are required. Candidates should have a background in human rights concerns in the region and excellent oral and written communications skills in English and French. Experience living or working in the region is an asset. The ideal candidate will be highly motivated and well organized, possess leadership skills and the ability to take initiative in problem solving, and be able to work quickly and well under pressure both independently and as a member of a team.

SALARY AND BENEFITS: HRW offers competitive compensation and employer-paid benefits.

APPLY IMMEDIATELY (deadline: November 21, 2003) by e-mailing together a cover letter, resume, references, and a sample of original, unedited writing (no calls, please) to africa@hrw.org. If e-mailing is not possible, mail materials together to Human Rights Watch, Attn: Search Committee - Rwanda Researcher, 350 Fifth Avenue, 34th Floor, New York, NY 10118-3299 USA (Please do not split a submission between e-mail and regular post.)

Human Rights Watch is an equal opportunity employer.

3) BAR APPLICATIONS

****Les formulaires de demande d'admission à l'Ecole du Barreau du Québec seront disponibles à partir du 1^{er} février 2004. IMPORTANT :** Vous n'aurez qu'un mois pour préparer votre demande puisque la date butoir sera le 1^{er} mars 2004. La date limite hors délais : 2 avril.

****ALBERTA BAR:** The Circular No. 1 is usually sent to placement offices in November. I will keep you posted when it will be available at the CPO.

4) BAR/BRI

Each year, Bar/Bri offers a course to help

McGill students prepare for the NY Bar exams as well as the Multistate Professional Responsibility Exam required by the NY State Bar. If you are interested in doing the NY Bar, a table with registration materials and other information will be set up at the atrium every Monday and Wednesday from 11:30 -1:30.

If you have any questions or concerns, please do not hesitate to contact Fatima Ahmad at fatima.ahmad@mail.mcgill.ca

5) IF YOU ARE LOOKING FOR AN ARTICLING POSITION AND ARE IN YOUR LAST YEAR OF STUDIES.

Here are a few suggestions:

. Au Québec: l'Ecole du Barreau du Québec a un Bureau de placement et affiche de nombreux postes sur son site intranet. Vous pourrez avoir accès à ces postes : www.ecole-dubarrau.qc.ca/stages/stagiaire.php

. In Ontario: Provided you have registered for the Ontario Bar Admission Course, you have access to career services through the Law Society. You should check the postings on: <http://education.lsuc.on.ca>.

. QUICKLAW-NAD (National Articling Directory): Quicklaw-NAD affiche les 'ARTICLING SURVEY' remplis par les cabinets/organisations pratiquant surtout le Common Law (avec quelques exceptions - voir plus bas). Vous pouvez les consulter électroniquement. Les cabinets qui ont encore des stages à offrir en 2004-2005 doivent l'indiquer sur ledit formulaire.

A titre d'exemples, les cabinets suivants et bien d'autres - cherchent toujours des stagiaires pour 2004-2005 :

- McDougall Gauley, Saskatoon, www.mcdougallgauley.com
- Harvey Katz Law Office, Hamilton, ON, www.hjklaw.on.ca
- Davidson & Company, Vernon, www.davidsonlaw.com
- Morelli Chertkow, Kamloops, www.morellichertkow.com
- Bellmore & Moore, Toronto, website under construction (416-581-1818)
- Cawood Walker Demmans Baldwin, North Battleford, SK, www3.sk.sympatico.ca/cawood
- Smart & Biggar, Vancouver, www.smart-bigggar.ca
- Smart & Biggar, Montréal, www.smart-biggar.ca

gar.ca (for the 2004-2005 articling)

- Evans, Bragagnolo & Sullivan LLP, Timmins, www.ebslawyers.com
- Peterson, Stang & Malakoe, Yellowknife, www.norlaw.nt.ca
- Sierra Legal Defence Fund, Toronto
- Office of the Judge-Advocate General, Ottawa, www.jag.ca
- Jenkins Marzban Logan, Vancouver, www.jml.ca

. Nos collègues de Osgoode ont produit un recueil de stages en Common Law (2004-2005) regroupant l'information fournie par Quicklaw-Nad et ayant le mérite d'être facile à consulter. Il est disponible pour consultation au Service de placement.

. **Résumé Programme :** Vous pouvez me soumettre votre candidature (CV et relevé de notes) et le Service de Placement l'enverra aux petits et moyens cabinets de Montréal et de Toronto. Apportez-moi un CV (et relevés de notes) par ville et identifiez la ville sur un post-it (Montréal et/ou Toronto). Nous nous occuperons du reste! **Deadline :** Wed., Dec. 4, 2003.

Je vous invite à venir me rencontrer (si ce n'est déjà fait) afin de discuter de votre situation et de stratégie.

6) PUBLIC INTEREST DAY - TORONTO

Osgoode and UofT are organizing a Public Interest Day on Friday, March 12 open to all law students. Location: MAG, 900 Bay St., Macdonald Block. Student will have to register on-line. I will keep you posted on the registration procedure and on the agenda/list of participants in the weeks to come.

7) LEGAL HANDBOOK & INTERNATIONAL HANDBOOK - available at the CPO!

The 6th edition of the Legal Employment Handbook is available at the CPO! Every student is entitled to his or her own copy. It features great testimonials from students and alumni from all over Canada and the U.S. and listings of firms and organizations by city. Free of charge. ■

[This copy of CPO Newsletter was truncated. You may access the full version at <http://www.law.mcgill.ca/cpo/careerlink-en.htm>.]